

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Advanced Methods to Target and Eliminate	)	CG Docket No. 17-59
Unlawful Robocalls	)	

**REPLY COMMENTS OF INCOMPAS**

INCOMPAS, by its undersigned counsel, hereby submits these Reply Comments in response to the Commission’s Notice of Proposed Rulemaking and Notice of Inquiry (“NPRM” or “NOI”) on eliminating illegal robocalls.<sup>1</sup>

**I. THE COMMISSION SHOULD RECONSIDER ITS PROPOSAL TO ALLOW PROVIDER-INITIATED BLOCKING OF CALLS ORIGINATING FROM UNASSIGNED NUMBERS GIVEN THE RISK TO LEGITIMATE TRAFFIC.**

Given the seriousness and ubiquity of the threat to their customers, it is no wonder that voice service providers have welcomed the Commission’s willingness to identify ways to mitigate the danger posed by illegal robocalls. While there appears to be unanimous support from voice service providers for eliminating unlawful robocalls generally, a consensus has emerged in the record that the Commission’s consideration of call blocking could have unintended and negative consequences on legitimate call traffic,<sup>2</sup> and, in the case of calls

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<sup>1</sup> *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 17-24 (rel. Mar. 23, 2017) (“NPRM” or “NOI”).

<sup>2</sup> *See, e.g.*, Comments of NCTA – The Internet & Television Association, CG Docket No. 17-59, at 5 (filed July 3, 2017) (suggesting that the Commission’s proposals to allow voice service providers to block both unallocated and unassigned numbers should not be adopted because “there is no standard mechanism for information about unallocated and unassigned numbers to be shared amongst providers in an effective and practical manner”).

originating from numbers that are allocated to a provider, but not assigned to a subscriber, is technically impracticable. The record in this proceeding demonstrates an industry-wide recognition that there is currently no technical solution that allows providers to accurately and promptly identify numbers that have been allocated to a carrier but not yet assigned to a subscriber.<sup>3</sup> As iconectiv illustrates in its comments, “that is a challenge if the Caller ID asserted was not assigned by the originating operator.”<sup>4</sup> Comcast speculates that any mechanism for “aggregating and exchanging this information in a centralized way and in real time” would “require universal industry participation in order to be maximally effective.”<sup>5</sup> Like INCOMPAS, many of these stakeholders have urged the Commission to exercise restraint and not include them in any FCC-approved call blocking rules. Permitting voice service providers to block this category of numbers without a real-time solution—such as a database—“presents a higher risk that valid calls will be blocked without the consent of customers.”<sup>6</sup>

Even supporters of the Commission’s proposal to block this category of calls acknowledge that “there are no known reliable methods available in the PSTN today to accomplish accurate blocking of allocated but unassigned numbers” and that the “proposal would

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<sup>3</sup> See Comments of Microsoft Corporation, CG Docket No. 17-59, at 13-14 (filed July 3, 2017) (“Microsoft Comments”). See also Comments of the Voice on the Net Coalition, CG Docket No. 17-59, at 4-5 (filed June 30, 2017) (“VON Coalition Comments”); Comments of Comcast Corporation, CG Docket No. 17-59, at 20 (filed July 3, 2017) (“Comcast Comments”).

<sup>4</sup> Comments of Telecordia Technologies, Inc. D/B/A iconectiv, CG Docket No. 17-59, at 5 (filed July 3, 2017).

<sup>5</sup> Comcast Comments at 20.

<sup>6</sup> Comments of T-Mobile USA, Inc., CG Docket No. 17-59, at 4 (filed July 3, 2017).

increase the risk that lawful traffic could be blocked.”<sup>7</sup> In order to block unassigned numbers without affecting legitimate traffic, providers would need access to a mechanism that would allow them to confirm that the calls being blocked are illegal. This repository for tracking subscriber-level assignment data would need to be updated in real-time and take into consideration providers’ varying cycle times to assign and recover numbers. CTIA, which supports a permissive blocking approach, has indicated that the infrastructure to “reliably and timely identify such classes of numbers across the ecosystem is not currently in place” and that any effort to develop a list of unassigned numbers would be “onerous.”<sup>8</sup> Additionally, ATIS states in its comments that any effort to share real-time data would be “unduly burdensome” with any benefits being “quickly diminished if/when bad actors adapt to spoofing legitimate assigned numbers to avoid service providers’ robocall mitigation techniques.”<sup>9</sup>

Further complicating the effort to populate any repository is Neustar’s assertion that “service providers often consider such information to be competitively sensitive” and are typically unwilling to share number assignment data.<sup>10</sup> ATIS similarly argues that an information sharing mandate is “inappropriate” and emphasized that information sharing about unassigned number could have “other negative consequences, unrelated to call completion or

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<sup>7</sup> Comments of Alliance for Telecommunications Industry Solutions at 7-8 (filed July 3, 2017) (“ATIS Comments”). *See also* Comments of Neustar, Inc., CG Docket No. 17-59, at 9 (filed July 3, 2017) (“Neustar Comments”) (indicating that the company is unaware of any existing means to implement the Commission’s proposal).

<sup>8</sup> Comments of CTIA, CG Docket No. 17-59, at 11 (filed June 30, 2017).

<sup>9</sup> ATIS Comments at 8.

<sup>10</sup> Neustar Comments at 9. *Accord* Comcast Comments at pg. 20; CTIA Comments at 11.

robocall mitigation.”<sup>11</sup> Taken together, these issues raise significant questions about the utility of blocking calls that are allocated to a provider but have yet to be assigned to a subscriber. Rather than proceed on the basis of theoretical validity, the Commission should withdraw this proposal.

In addition, the record reflects that, contrary to the assertions of the NPRM,<sup>12</sup> there are valid calls that originate from what may appear to be “unassigned numbers” and that the Commission’s proposal to block these calls could have the unintended consequence of preventing outgoing domestic call completion. ATIS explains that carriers regularly allocate numbers to interconnected VoIP providers for legitimate uses.<sup>13</sup> These numbers are dynamically assigned as part of one-way outbound calling services, in products like Microsoft’s SkypeOut, and are used to populate caller ID fields to ensure IP call completion. These “proxy” numbers are employed without being assigned to a specific user and are then returned to a pool of numbers that are available for subsequent assignment.<sup>14</sup> Since these numbers are not assigned to a specific subscriber in the traditional sense, the Commission’s proposal raises significant concerns that a VoIP service like SkypeOut may have their legitimate traffic inadvertently blocked by a provider who believes the number is not being utilized. Relatedly, the Voice on the

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<sup>11</sup> ATIS Comments at 8.

<sup>12</sup> See NPRM at ¶ 21 (contending that “a subscriber cannot originate a call from such a number,” and that the agency “forsee[s] no legitimate, lawful purpose for intentionally spoofing a number that is not assigned to a subscriber and thus cannot be called back”)

<sup>13</sup> See ATIS Comments at 8-9 (clarifying that these unassigned numbers are considered either “intermediate” or “administrative” numbers under the Commission rules and therefore, “they should not be included in the category of ‘unassigned’ numbers for which blocking would be permissible”).

<sup>14</sup> See Microsoft Comments at 14-15.

Net Coalition (“VON Coalition”) points out that “proxy” numbers are critically important in the deployment of next-generation 911 services as callback numbers. The Coalition indicates that the Commission’s proposals could have the unintended consequence of blocking or interrupting emergency calls which would be “detrimental” to these services.<sup>15</sup>

## **II. NOTICE OF INQUIRY MATTERS**

### **a. Consideration of a Broader Safe Harbor For Voice Service Providers At This Time Would Be Premature.**

In this proceeding, INCOMPAS has encouraged the Commission to take circumscribed action with respect to its provider-initiated call blocking proposals that would protect consumer choice and consumers’ expectations that legitimate calls will be connected. The Commission’s approach to this consumer protection issue must take into account the risk that large providers, who possess the incentive to block calls originated by competitive voice service providers, may engage in anti-competitive behavior. To that end, INCOMPAS has proposed that providers be prohibited from engaging in this type of behavior when following the Commission’s approach to provider-initiated call blocking. Call completion continues to be one of our members’ primary concerns and Microsoft, a member company, had 1.2 million SkypeOut calls blocked inadvertently by a major U.S. carrier between November 2016 and February 2017.<sup>16</sup>

Given these concerns, INCOMPAS believes it is premature to consider a broader safe harbor for providers who block calls in accordance with the Commission’s rules. The robocall solutions being considered by the Commission are still in their nascent stages of development—questions remain about the ability of the SHAKEN/STIR framework to accommodate VoIP

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<sup>15</sup> VON Coalition Comments at 5.

<sup>16</sup> Microsoft Comments at 6.

services, and the Strike Force’s traceback initiative is refining best practices for information-sharing. Furthermore, INCOMPAS agrees with Microsoft that a safe harbor, at this point could “reduce the incentive to improve and maintain precision of call blocking mechanisms.”<sup>17</sup> Instead of a safe harbor, the Commission would be better served to “exercise prosecutorial discretion” which would allow the agency to seek evidence of anticompetitive or intentional behavior in cases where providers may have blocked legitimate calls while dismissing inadvertent or correctable actions.<sup>18</sup>

**b. Providers Should Be Required To Develop Protections For Legitimate Callers Before Participating In Call Blocking.**

Voice service providers have an obligation to fulfill their customers’ expectations that legitimate calls will be completed. In order to protect consumers’ expectations, the Commission should require providers that seek to participate in call blocking to have a process in place that immediately addresses complaints that a legitimate call has been blocked. Without a protection and redress policy, there is a risk that some carriers may ignore the impact of blocking calls to the detriment of legitimate callers and their originating providers. Rather than prescribe a specific procedure to follow, providers should be given discretion to adjust their policies according to their size and services.

Furthermore, INCOMPAS believes it is unnecessary to designate an officer or other authorized point of contact for legitimate callers seeking to require providers to immediately cease blocking calls. Particularly for small providers, this requirement would be unduly burdensome. Instead, INCOMPAS urges the Commission to allow providers to offer a

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<sup>17</sup> *Id.* at 18.

<sup>18</sup> *Id.*

mechanism (identified in the customer agreement) for the customer to communicate with the provider about call blocking concerns.

### **III. CONCLUSION**

As it considers the issues raised in the *NPRM* and *NOI*, INCOMPAS urges the Commission to establish rules that prevent unwanted and unlawful robocalls while simultaneously prohibiting providers from blocking legitimate traffic.

Respectfully submitted,

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